

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

## PLAINTIFFS

BC MEDIA FUNDING COMPANY, II, MEDIA FUNDING  
COPMANY

## ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Anthony DiSarro and Kara L. Gorycki  
Winston & Strawn, LLP  
200 Park Avenue, New York, NY 10166-4193  
(212) 294-6700

## DEFENDANTS

FRANK LAZAUSKAS, MICHAEL L. METTER, LEONARD  
MOSCATI AND E. MICHAEL PISANI

## ATTORNEYS (IF KNOWN)

SCOTT D. ROSEN, ESQUIRE, COHN BIRNBAUM & SHEA P.C.  
100 PEARL STREET, 12TH FLOOR, HARTFORD, CT 06103  
(860) 493-2200CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

18.U.S.C. Sections 1441(a) and 1332(a)(1)

Has this or a similar case been previously filed in SDNY at any time? No? ☒ Yes? ☐ Judge Previously Assigned \_\_\_\_\_If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

(PLACE AN [x] IN ONE BOX ONLY)

## NATURE OF SUIT

## TORTS

## CONTRACT

- [ ] 110 INSURANCE  
[ ] 120 MARINE  
[ ] 130 MILLER ACT  
[ ] 140 NEGOTIABLE  
INSTRUMENT  
[ ] 150 RECOVERY OF  
OVERPAYMENT &  
ENFORCEMENT  
OF JUDGMENT  
[ ] 151 MEDICARE ACT  
[ ] 152 RECOVERY OF  
DEFAULTED  
STUDENT LOANS  
(EXCL VETERANS)  
[ ] 153 RECOVERY OF  
OVERPAYMENT  
OF VETERAN'S  
BENEFITS  
[ ] 160 STOCKHOLDERS  
SUITS  
X 190 OTHER  
CONTRACT  
[ ] 195 CONTRACT  
PRODUCT  
LIABILITY  
[ ] 196 FRANCHISE

## REAL PROPERTY

- [ ] 210 LAND  
[ ] 220 CONDEMNATION  
[ ] 230 FORECLOSURE  
[ ] 240 RENT LEASE &  
EJECTMENT  
[ ] 245 TORTS TO LAND  
[ ] 245 TORT PRODUCT  
LIABILITY  
[ ] 290 ALL OTHER  
REAL PROPERTY

## PERSONAL INJURY

- [ ] 310 AIRPLANE  
[ ] 315 AIRPLANE PRODUCT  
LIABILITY  
[ ] 320 ASSAULT, LIBEL &  
SLANDER  
[ ] 330 FEDERAL  
EMPLOYERS'  
LIABILITY  
[ ] 340 MARINE  
[ ] 345 MARINE PRODUCT  
LIABILITY  
[ ] 350 MOTOR VEHICLE  
[ ] 355 MOTOR VEHICLE  
PRODUCT LIABILITY  
[ ] 360 OTHER PERSONAL  
INJURY

## ACTIONS UNDER STATUTES

## CIVIL RIGHTS

- [ ] 441 VOTING  
[ ] 442 EMPLOYMENT  
[ ] 443 HOUSING/  
ACCOMMODATIONS  
[ ] 444 WELFARE  
[ ] 445 AMERICANS WITH  
DISABILITIES -  
EMPLOYMENT  
[ ] 446 AMERICANS WITH  
DISABILITIES -OTHER  
[ ] 440 OTHER CIVIL RIGHTS

## PERSONAL INJURY

- [ ] 362 PERSONAL INJURY -  
MED MALPRACTICE  
[ ] 365 PERSONAL INJURY  
PRODUCT LIABILITY  
[ ] 368 ASBESTOS PERSONAL  
INJURY PRODUCT  
LIABILITY

## PERSONAL PROPERTY

- [ ] 370 OTHER FRAUD  
[ ] 371 TRUTH IN LENDING  
[ ] 380 OTHER PERSONAL  
PROPERTY DAMAGE  
[ ] 385 PROPERTY DAMAGE  
PRODUCT LIABILITY

## PRISONER PETITIONS

- [ ] 510 MOTIONS TO  
VACATE SENTENCE  
28 USC 2255  
[ ] 530 HABEAS CORPUS  
[ ] 535 DEATH PENALTY  
[ ] 540 MANDAMUS & OTHER  
[ ] 550 CIVIL RIGHTS  
[ ] 555 PRISON CONDITION

## FORFEITURE/PENALTY

- [ ] 610 AGRICULTURE  
[ ] 620 OTHER FOOD &  
DRUG  
[ ] 625 DRUG RELATED  
SEIZURE OF  
PROPERTY  
21 USC 881  
[ ] 630 LIQUOR LAWS  
[ ] 640 RR & TRUCK  
[ ] 650 AIRLINE REGS  
[ ] 660 OCCUPATIONAL  
SAFETY/HEALTH  
[ ] 690 OTHER

## LABOR

- [ ] 710 FAIR LABOR  
STANDARDS ACT  
LABOR/MGMT  
[ ] 720 RELATIONS  
LABOR/MGMT  
REPORTING &  
DISCLOSURE ACT  
[ ] 740 RAILWAY LABOR ACT  
[ ] 790 OTHER LABOR  
LITIGATION  
[ ] 791 EMPL RET INC  
SECURITY ACT

## IMMIGRATION

- [ ] 462 NATURALIZATION  
APPLICATION  
[ ] 463 HABEAS CORPUS-  
ALIEN DETAINEE  
[ ] 465 OTHER IMMIGRATION  
ACTIONS

## ACTIONS UNDER STATUTES

## BANKRUPTCY

- [ ] 422 APPEAL  
28 USC 158  
[ ] 423 WITHDRAWAL  
28 USC 157

## PROPERTY RIGHTS

- [ ] 820 COPYRIGHTS  
[ ] 830 PATENT  
[ ] 840 TRADEMARK

## SOCIAL SECURITY

- [ ] 861 HIA (1395ff)  
[ ] 862 BLACK LUNG (923)  
[ ] 863 DIWC/DIWW (405(g))  
[ ] 864 SSID TITLE XVI  
[ ] 865 RSI (405(g))

## FEDERAL TAX SUITS

- [ ] 870 TAXES (U.S. Plaintiff or  
Defendant)  
[ ] 871 IRS-THIRD PARTY  
26 USC 7609

## OTHER STATUTES

- [ ] 400 STATE  
REAPPORTIONMENT  
[ ] 410 ANTITRUST  
[ ] 430 BANKS & BANKING  
[ ] 450 COMMERCE  
[ ] 460 DEPORTATION  
[ ] 470 RACKETEER INFLU-  
ENCED & CORRUPT  
ORGANIZATION ACT  
(RICO)  
[ ] 480 CONSUMER CREDIT  
[ ] 490 CABLE/SATELLITE TV  
[ ] 810 SELECTIVE SERVICE  
[ ] 850 SECURITIES/  
COMMODITIES/  
EXCHANGE  
[ ] 875 CUSTOMER  
CHALLENGE  
12 USC 3410  
[ ] 890 OTHER STATUTORY  
ACTIONS  
[ ] 891 AGRICULTURAL ACTS  
[ ] 892 ECONOMIC  
STABILIZATION ACT  
[ ] 893 ENVIRONMENTAL  
MATTERS  
[ ] 894 ENERGY  
ALLOCATION ACT  
[ ] 895 FREEDOM OF  
INFORMATION ACT  
[ ] 900 APPEAL OF FEE  
DETERMINATION  
UNDER EQUAL  
ACCESS TO JUSTICE  
[ ] 950 CONSTITUTIONALITY  
OF STATE STATUTES

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?  
IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

## ORIGIN

- ☐ 1 Original Proceeding
 ☒ 2a. Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court AND at least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

## BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☐ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☒ 4 DIVERSITY

IF DIVERSITY, INDICATE  
CITIZENSHIP BELOW.  
(28 USC 1322, 1441)

## CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

|                          |                    |   |                    |   |                    |
|--------------------------|--------------------|---|--------------------|---|--------------------|
| CITIZEN OF THIS STATE    | PTF DEF<br>[ ] [ ] | CITIZEN OR SUBJECT OF A FOREIGN COUNTRY                   | PTF DEF<br>[ ] [ ] | INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE | PTF DEF<br>[ ] [ ] |
| CITIZEN OF ANOTHER STATE | [ ] [X] [ ]        | INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE | [X] [ ] [ ]        | FOREIGN NATION  | [ ] [ ]            |

## PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

BC MEDIA FUNDING COMPANY II  
10 ROCKEFELLER PLAZA  
NEW YORK, NY

MEDIA FUNDING COMPANY  
10 ROCKEFELLER PLAZA  
NEW YORK, NY

## DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

MICHAEL L. METTER, ONE TINKER LANE, GREENWICH, CT 06830 (Fairfield County);  
FRANK LAZAUSKAS, 1490 DAYTON AVENUE, GREENWICH, CT 06830 (Fairfield County);  
LEONARD F. MISCOTTI, 41 RICHMOND HILL ROAD, GREENWICH, CT 06830 (Fairfield County); AND  
D. MICHAEL PISANI, 44 LAKE ROAD, SHORT HILLS, NEW JERSEY 07078 (Essex County).

## DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: (DO NOT check either box if this a PRISONER PETITION.)

☐ WHITE PLAINS☒ MANHATTAN

DATE 7/9/08 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[ ] NO

☒ YES (DATE ADMITTED Mo. 6 Yr. 2004)  
Attorney Bar Code # SR1545

RECEIPT #

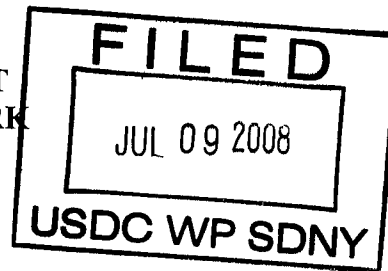
Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge JUDGE ELLIS is so Designated.

J. Michael McMahon, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



BC Media Funding Company II  
Media Funding Company

Plaintiffs

v.

Frank Lazauskas, Michael L. Metter  
Leonard Moscati and E. Michael Pisani

Defendants

Civil Action No.

08 CIV. 6228

JUDGE PATTERSON

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGES FOR THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK:

The removing party, Michael L. Metter, by his undersigned attorney, respectfully shows  
this Court as follows:

1. The moving party is a defendant in this action.
2. The plaintiffs commenced this action against Michael L. Metter, Frank  
Lazauskas, Leonard F. Moscati and E. Michael Pisani, in the Supreme Court of the State of New  
York, County of New York, on June 9, 2008, which action was assigned Index No. 08-601724,  
and is pending in that Court. Plaintiff's attorneys in the state court action are:

Winston & Strawn LLP  
Anthony R. DiSarro and Kara L. Gorycki  
200 Park Avenue  
New York, NY 10166-4193  
Telephone: (212)294-6700

3. On June 10, 2008, Plaintiff attempted to serve removing party with a Summons,  
Notice of Motion for Summary Judgment in Lieu of Complaint, and various other supporting and  
related documents more fully described in paragraph 9 below, by leaving a copy of such papers at

removing party's place of business in Greenwich, Connecticut on June 10, 2008. This notice is filed within 30 days after such attempted service. Removing Party does not admit that such service was sufficient.

4. Defendant Moscati was served on June 14, 2008. The date of service on the Defendants Lazauskas and Pisani is unknown, but on information and belief, was not earlier than June 10, 2008.

5. The controversy in this action is wholly between citizens of different states in that:

a. Defendant Michael L. Metter, the removing party, at all relevant times has been and is an individual citizen and resident of the State of Connecticut who resides at One Tinker Lane, Greenwich, CT, 06830;

b. The Defendant, Frank Lazauskas at all relevant times has been and is an individual citizen and resident of the State of Connecticut who resides at 1490 Dayton Avenue, Greenwich, CT, 06830;

c. The Defendant, Leonard F. Moscotti, at all relevant times has been and is an individual citizen of the State of Connecticut who resides at 41 Richmond Hill Road, Greenwich, CT, 06830.

d. Defendant D. Michael Pisani at all relevant times has been and is an individual citizen of the State of New Jersey who resides at 44 Lake Road, Short Hills, New Jersey, 07078.

e. The Plaintiff, BC Media Funding Company II is a Delaware limited liability company with its principal place of business located at 10 Rockefeller Plaza, New York New York.

f. The Plaintiff, Media Funding Company is a Delaware limited liability company with its principal place of business located at 10 Rockefeller Plaza, New York New York.

6. The amount in controversy, exclusive of interest and costs, is in excess of \$75,000, as more fully appears in Notice of Motion for Summary Judgment in Lieu of Complaint, a copy of which is filed with this Notice and made a part hereof.

7. This Court has, therefore, original jurisdiction of the above-entitled action pursuant to 28 U.S.C. §1332. As none of the Defendants are citizens or residents of the State of New York, removal of the action to this Court is proper pursuant to 28 U.S.C. §1441(a).

8. The Defendants Frank Lazauskas, Leonard F. Moscotti and Michal Pisani assent to removal of this action to the United States District Court for the Southern District of New York. All of the Defendants are represented by the undersigned counsel.

9. Copies of all process, pleadings and other papers served on removing party in this action are filed with this notice and consist of the following:

- a. Request for Judicial Intervention;
- b. Summons;
- c. Notice of Motion for Summary Judgment in Lieu of Complaint;
- d. Affidavit of Timothy T. Olson, together with Exhibits A through K thereto;
- e. Memorandum of Law in Support of Plaintiff's Motion for Summary Judgment; and
- f. Statement in Support of Assignment of Case to the Commercial Division.

WHEREFORE, Removing Party respectfully requests that this action be removed from the Supreme Court of the State of New York, County of New York, to this Court.

Dated: July 9, 2008

COHN BIRNBAUM & SHEA P.C.

By /s/ Scott D. Rosen  
Scott D. Rosen (SR 1545)  
100 Pearl Street – 12<sup>th</sup> Floor  
Hartford, CT 06103  
Telephone: (860)493-2200  
Attorneys for Defendant Michael L. Metter

ASSENTED TO BY ALL CO-DEFENDANTS:

COHN BIRNBAUM & SHEA PC

By /s/ Scott D. Rosen  
Scott D. Rosen (SR 1545)  
100 Pearl Street – 12<sup>th</sup> Floor  
Hartford, CT 06103  
Telephone: (860)493-2200

Attorney for Defendant Frank Lazakaskus,  
Leonard F. Moscatti and B. Michael Pisani

142945

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

|                                       |   |  |
|---------------------------------------|---|--|
| BC Media Funding Company II           | ) |  |
| Media Funding Company                 | ) |  |
|                                       | ) |  |
| Plaintiffs                            | ) |  |
|                                       | ) |  |
| v.                                    | ) |  |
|                                       | ) |  |
| Frank Lazauskas, Michael L. Metter    | ) |  |
| Leonard Moscati and E. Michael Pisani | ) |  |
|                                       | ) |  |
| Defendants                            | ) |  |

**VERIFICATION OF SCOTT D. ROSEN OF  
SERVICE OF NOTICE OF REMOVAL**

I, Scott D. Rosen, attorney for the Defendants, have served a copy of the Notice of Removal on the below-listed counsel for the Plaintiffs by depositing the same with the United States Postal Service, postage prepaid, on July 9, 2008:

Winston & Strawn LLP  
Anthony R. DiSarro and Kara L. Gorycki  
200 Park Avenue  
New York, NY 10166-4193

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 9, 2008.

\_\_\_\_\_  
/s/ Scott D. Rosen  
Scott D. Rosen

142973